

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jul 17, 2025

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DON N. MARTIN, JR.,

Petitioner,

v.

SARAH MEREDITH,

Respondent.

No. 1:25-CV-03112-MKD

ORDER DISMISSING PETITION

ECF Nos. 3, 4, 5

Before the Court is Plaintiff's *pro se* Petition for Writ of Habeas Corpus filed on behalf of his minor children. ECF No. 1. Having reviewed Plaintiff's Petition liberally, *see Capp v. Cnty. of San Diego*, 940 F.3d 1046, 1052 (9th Cir. 2019), the Court summarily dismisses the Petition. *See* 28 U.S.C. § 2243 (if it "appears from the application that the applicant or person detained is not entitled" to habeas relief, a court may summarily dismiss a habeas action); Rule 4 of Rules

1 Governing Section 2254 Cases in United States District Courts (petition may be
2 summarily dismissed if petitioner plainly not entitled to relief).

3 “Federal courts are always under an independent obligation to examine their
4 own jurisdiction, and a federal court may not entertain an action over which it has
5 no jurisdiction.” *Hernandez v. Campbell*, 204 F.3d 861, 865 (9th Cir. 2000) (per
6 curiam) (cleaned up). The Court lacks subject matter jurisdiction to entertain the
7 Petition. Under 28 U.S.C. § 2254, a federal court “shall entertain an application
8 for a writ of habeas corpus ... only on the ground that [the applicant] is in custody
9 in violation of the Constitution or the laws or treaties of the United States.”

10 Petitioner’s children are not in “custody” as required by the habeas statutes. *See*
11 *Lehman v. Lycoming Cnty. Children’s Servs. Agency*, 458 U.S. 502, 512-16 (1982)
12 (“extending the federal writ to challenges to state child-custody decisions—
13 challenges based on alleged constitutional defects collateral to the actual custody
14 decision—would be an unprecedented expansion of the jurisdiction of the lower
15 federal courts”); *see also Bell v. Dep’t of Soc. & Health Servs.*, 382 F. App’x. 669,
16 670 (9th Cir. 2010) (affirming district court’s ruling that it lacked jurisdiction to
17 adjudicate habeas petitioner’s challenge to constitutionality of state’s termination
18 of his parental rights and placement of his children in foster facilities); *Cucalon v.*
19 *Rice*, 317 F. App’x 602, 603 (9th Cir. 2008) (“state court judgments concerning
20 child custody matters are beyond the purview of habeas corpus”). Because

1 Petitioner's children are not in "custody," the Court lacks jurisdiction over
2 Petitioner's petition.

3 Accordingly, **IT IS HEREBY ORDERED:**

4 1. Petitioner's Petition, **ECF No. 1**, is summarily **DISMISSED with**
5 **prejudice** pursuant to 28 U.S.C. § 2243.

6 2. Petitioner's Motion to Authorize Service, **ECF No. 3**, Emergency
7 Motion for Immediate Relief, **ECF No. 4**, and Motion for
8 Appointment of Pro Bono Counsel, **ECF No. 5**, are **DENIED as**
9 **moot.**

10 3. The Court certifies that pursuant to 28 U.S.C. § 1915(a)(3), an appeal
11 from this decision could not be taken in good faith, and there is no
12 basis upon which to issue a certificate of appealability. 28 U.S.C. §
13 2253(c); Fed. R. App. P. 22(b)

14 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
15 Order, **enter judgment**, provide a copy to Petitioner, and **CLOSE THE FILE.**

16 DATED July 17, 2025.

17 s/Mary K. Dimke
18 MARY K. DIMKE
19 UNITED STATES DISTRICT JUDGE
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